

House of Representatives, March 26, 1998. The Committee on Insurance and Real Estate reported through REP. AMANN, 118th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING SURETY INSURANCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Subdivision (1) of section 38a-92a of the
2 general statutes, as amended by section 3 of
3 public act 97-108, is repealed and the following
4 is substituted in lieu thereof:

5 (1) (A) "Financial guaranty insurance" means
6 a surety bond, an insurance policy or, when issued
7 by an insurer, an indemnity contract and any
8 guaranty similar to the foregoing types, under
9 which loss is payable upon proof of occurrence of
10 financial loss to an insured claimant, obligee or
11 indemnitee as a result of any of the following
12 events: Failure of any obligor on any debt
13 instrument or other monetary obligation, including
14 common or preferred stock guaranteed under a
15 surety bond, insurance policy or indemnity
16 contract, to pay when due principal, interest,
17 premium, dividend, purchase price of or on the
18 instrument or obligation or other monetary payment
19 when due when the failure is the result of a
20 financial default or insolvency, regardless of
21 whether the obligation is incurred directly or as
22 guarantor by or on behalf of another obligor that
23 has also defaulted, or any other failure to make

24 payment, provided the payment obligation or risk
25 which is insured is investment grade; changes in
26 the levels of interest rates, whether short or
27 long-term or the differential in interest rates
28 between various markets or products; changes in
29 the rate of exchange of currency; changes in the
30 value of financial or commodity indices or price
31 levels in general; or other events as determined
32 by the commissioner.

33 (B) "Financial guaranty insurance" shall not
34 include:

35 (i) Insurance of any loss resulting from any
36 event described in subparagraph (A) of this
37 subdivision if the loss is payable only upon the
38 occurrence of any of the following, as specified
39 in a surety bond, insurance policy or indemnity
40 contract: A fortuitous physical event; a failure
41 of or deficiency in the operation of equipment; or
42 an inability to extract or recover a natural
43 resource;

44 (ii) Surety insurance, defined as insurance:
45 Guaranteeing the fidelity of persons holding
46 positions of public or private trusts;
47 indemnifying financial institutions against loss
48 of moneys, securities, negotiable instruments and
49 other tangible items of personal property caused
50 by larceny, misplacement, destruction or other
51 stated perils; insuring against loss caused by
52 forgery of signatures on, or alterations of
53 specified documents, instruments and papers;
54 BECOMING SURETY ON OR GUARANTEEING THE PERFORMANCE
55 OF A BOND WHICH SHALL NOT EXCEED A PERIOD GREATER
56 THAN FIVE YEARS, THAT GUARANTEES THE PAYMENT OF A
57 PREMIUM, DEDUCTIBLE, OR SELF-INSURED RETENTION TO
58 AN INSURER ISSUING A WORKERS' COMPENSATION OR
59 LIABILITY POLICY; guaranteeing the performance of
60 contracts for services, including a bid, payment
61 or performance bond where the bond is guaranteeing
62 the execution of any contract other than a
63 contract of indebtedness or other monetary
64 obligation; and guaranteeing or otherwise becoming
65 surety for the performance of any lawful contract,
66 not specifically provided for in this subdivision,
67 except any insurance contract which constitutes
68 either mortgage guaranty insurance or financial
69 guaranty insurance, as defined in subparagraph (A)
70 of this [subsection] SUBDIVISION.

71 (iii) Credit unemployment insurance, defined
72 as insurance on a debtor in connection with a
73 specific loan or other credit transaction, to
74 provide payments to a creditor in the event of
75 unemployment of the debtor for the instalments or
76 other periodic payments becoming due while a
77 debtor is unemployed;

78 (iv) Credit insurance indemnifying a
79 manufacturer, merchant or educational institution
80 which extends credit against loss or damage
81 resulting from nonpayment of debts owed to such
82 entity for goods or services provided in the
83 normal course of business;

84 (v) Guaranteed investment contracts issued by
85 a life insurance company which provides that the
86 life insurer will make specified payments in
87 exchange for specific premiums or contributions;

88 (vi) Mortgage guaranty insurance, defined as
89 insurance against financial loss by reason of the
90 nonpayment of principal, interest and other sums
91 agreed to be paid under the terms of any note or
92 bond or other evidence of indebtedness secured by
93 a mortgage, deed of trust or other instrument
94 constituting a first lien or charge on residential
95 real estate consisting of less than five units;

96 (vii) Indemnity contracts or similar
97 guaranties, to the extent that they are not
98 otherwise limited or proscribed by sections 38a-92
99 to 38a-92n, inclusive, in which a life insurer
100 does any of the following: Guarantees its
101 obligations or indebtedness or the obligations or
102 indebtedness of a subsidiary, as defined in
103 section 38a-1, other than a financial guaranty
104 insurance corporation, provided: To the extent
105 that any such obligations or indebtedness are
106 backed by specific assets, those assets shall be
107 at all times owned by the life insurer or the
108 subsidiary, and in the case of the guaranty of the
109 obligations or indebtedness of the subsidiary that
110 are not backed by specific assets of the life
111 insurer, the guaranty terminates once the
112 subsidiary ceases to be a subsidiary; guarantees
113 obligations or indebtedness, including the
114 obligation to substitute assets where appropriate,
115 with respect to specific assets acquired by a life
116 insurer in the course of normal investment
117 activities and not for the purpose of resale with
118 credit enhancement or guarantees obligations or

119 indebtedness acquired by a subsidiary, provided
120 the assets acquired pursuant to this subparagraph
121 have been either acquired by a special purpose
122 entity, whose sole purpose is to acquire specific
123 assets of the life insurer or the subsidiary and
124 issue securities or participation certificates
125 backed by the assets, or sold to an independent
126 third party, or guarantees obligations or
127 indebtedness of an employee or agent of the life
128 insurer;

129 (viii) Any cramdown bond or mortgage
130 repurchase bond, as those phrases are used by
131 nationally recognized rating agencies in respect
132 to mortgage-backed securities;

133 (ix) Residual value insurance, defined as
134 insurance issued in connection with a lease or
135 contract which sets forth a specific termination
136 value at the end of the term of the lease or
137 contract for the property covered by the lease or
138 contract and which insures against loss of
139 economic value, other than loss due to physical
140 damage, of tangible personal property, real
141 property and improvements thereto;

142 (x) Any letter of credit or similar
143 transaction effected by a bank, trust company or
144 savings association;

145 (xi) Accumulation fund arrangements of any
146 life insurance contract or annuity contract made
147 pursuant to section 1 of [this act] PUBLIC ACT
148 97-108, or any funding agreements made pursuant to
149 section 38a-459, AS AMENDED; or

150 (xii) Any other form of insurance covering
151 risks that the commissioner determines to be
152 substantially similar to any of the foregoing.

153 STATEMENT OF LEGISLATIVE COMMISSIONERS: The
154 remainder of subdivision (1) was added for
155 context.

156 INS COMMITTEE VOTE: YEA 18 NAY 0 JFS-LCO

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5465

STATE IMPACT None, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Department of Insurance

EXPLANATION OF ESTIMATES:

The bill adds two financial guarantees that pertain to surety insurance:

1) Insurance that becomes security on or guaranteeing the performance of a bond which shall not exceed a period greater than five years.

2) Insurance that guarantees the payment of a premium, deductible or self-insured retention to an insurer issuing a worker's compensation or liability policy.

These two additional types of surety insurance will not have a workload impact on the Department of Insurance.

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OLR BILL ANALYSIS

HB 5465

AN ACT CONCERNING SURETY INSURANCE

SUMMARY: This bill expands the definition of surety insurance to include acting as a surety or guaranteeing the performance of a bond with a maturity of up to five years that guarantees a workers' compensation or

liability insurer's premium, deductible, or
self-insured retention.

EFFECTIVE DATE: October 1, 1998

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Report

Yea 18 Nay 0